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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/914,229

08/24/2001

Toshihiko Kaji

YMOR:219

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08/25/2005

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EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT

PAPER NUMBER

2655

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/914,229	<b>Applicant(s)</b> KAJI, TOSHIHIKO	
	<b>Examiner</b> Jorge L. Ortiz-Criado	<b>Art Unit</b> 2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 3-5, 10, 11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-5, 10, 11 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claim 3 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. There are No traversal reasons made of record.
2. This application contains claims drawn to an invention nonelected without traverse in Paper No. 06/08/2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 13 and 15 recites the limitation wherein the predetermined range is adjustable according to "the magnitude of kicking"; and claim 14 and 16 recites the limitation wherein the predetermined range for "a lesser magnitude of kicking" is wider than the predetermined range for "a greater magnitude of kicking".

The Examiner cannot readily ascertain/map where in the specification as originally filed such a disclosure/support is found in the descriptive portion of the specification by reference to the drawing, designating part or parts therein to which the terms "the magnitude of kicking, a lesser magnitude of kicking, a greater magnitude of kicking" applies. Therefore, these limitations are considered new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5, 11 and 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 and 11 recites the limitation "the predetermined value" in the second and third lines of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the magnitude of kicking" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 4-5, 10-11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito J.P.10-112039.

Regarding claim 4, Saito discloses an optical disk device comprising a control section for controlling track hold of a pickup with respect to an optical disk recording medium, wherein the control section is for measuring an offset amount of a lens relative to the center in the pickup several times before said control section effects kicking and for effecting kicking when the offset amount is reduced at the time of each measurement and a latest offset amount is within a predetermined range (See Abstract, detailed description [0017]-[0024]; [0043]-[0054])

Regarding claim 5, Saito discloses in that the control section operates is for changing the predetermined value and for comparing the predetermined value with the offset amounts measured several times depending on a number of tracks to be jumped by said kicking (See detailed description [0022]-[0024])

Regarding claims 13 and 14, Saito discloses wherein the predetermined range is adjustable according to “the magnitude of kicking”; wherein the predetermined range for “a

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lesser magnitude of kicking” is wider than the predetermined range for “a greater magnitude of kicking” (See detailed description [0019]-[0024]; Figs. 4, 6)

Regarding claims 10, 11, 15 and 16, Method 10, 11, 15 and 16 are drawn to the method of using the corresponding apparatus claimed in claims 4, 5, 13 and 14. Therefore method claims 10, 11, 15 and 16 correspond to the apparatus claims 4, 5, 13 and 14 and are rejected for the same reason of anticipation as used above.

### ***Response to Arguments***

1. Applicant's arguments filed 06/07/2005 have been fully considered but they are not persuasive.

Applicants argue that Saito does not disclose or suggest control section for measuring an offset amount of a lens relative “in the pickup” center of the pickup, performing the measurements a plurality of times initiating/performing/effecting kicking when the offset “reduced”, and argues that Saito does not disclose measuring “a position of a lens”

The Examiner cannot concur, because Saito discloses, as claimed wherein during the track hold a pickup the offset amount of the lens relative to the center of the pickup due to eccentricity rotation of the disk is introduced in the tracking error signal detected in the photo detectors and is measured as shown in, the variation in tracking error due to disk eccentricity introduced in the tracking error signal is measured during track hold (See [0045]-[0047]; Fig. 4, Fig. 6)

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L. Ortiz-Criado whose telephone number is (571) 272-7624. The examiner can normally be reached on Mon.-Thu.(8:30 am - 6:00 pm),Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne R. Young can be reached on (571) 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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W. R. YOUNG  
PRIMARY EXAMINER